

**Council for Trade-Related Aspects of  
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY LAWS AND REGULATIONS  
NOTIFIED UNDER ARTICLE 63.2 OF THE AGREEMENT**

**TURKEY**

The present document reproduces the text<sup>1</sup> of the following laws and regulations, as notified by Turkey under Article 63.2 of the Agreement (see document IP/N/1/TUR/2):

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**Conseil des aspects des droits de propriété  
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA  
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE  
DE L'ARTICLE 63:2 DE L'ACCORD**

**TURQUIE**

Le présent document contient le texte<sup>1</sup> des lois et réglementations ci-après, notifiées par la Turquie au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/TUR/2):

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**Consejo de los Aspectos de los Derechos de Propiedad  
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA  
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD  
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

**TURQUÍA**

En el presente documento se reproduce el texto<sup>1</sup> de las siguientes leyes y reglamentos que Turquía notificó de conformidad con lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/TUR/2):

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<sup>1</sup> In English only. The texts in the original language are available for consultation by interested Delegations at the WTO Secretariat./En anglais seulement. Les délégations intéressées peuvent consulter les textes dans leur langue d'origine, au Secrétariat de l'OMC./En inglés solamente. Las delegaciones interesadas podrán consultar en la Secretaría de la OMC los textos en su idioma original.

# **STATUE ON THE PROFESSIONAL UNIONS and FEDERATION of the AUTHORS and OWNERS of NEIGHBORING RIGHTS**

## **PART ONE General Provisions**

### **Article 1- Purpose and Scope**

These Regulations cover the establishment of the professional associations and federations for intellectual, artistic and adjacent rights, their functions, revenues, auditing, admission to and resignation and dismissal from membership, procedure for the distribution of indemnities and profit distribution to the intellectual, artistic and adjacent right owners and the details on the operations of unions and federations.

### **Article 2 - Definitions**

The following terms used herein will denote the meaning indicated across them below:

Ministry	The Ministry of Culture.
Federation	Apex organisations of the intellectual, artistic and adjacent right owner unions established pursuant to the provisions of the Law and Regulations..
Unions	Unions established pursuant to the provisions of the Law and Regulations by the intellectual, artistic and adjacent right owners for defending their common interests, collecting indemnities and intellectual rights and distributing them to the entitlees.
Law	Law #5846 dated 5 December 1951 on the Intellectual and Artistic Works.
Regulations	Regulations on the Unions of Intellectual, Artistic and Adjacent Right Holders and Their Federations.

Work Owner	Person producing an intellectual or artistic work.
Adjacent right holder	Persons holding rights defined in the article #80 of the Law adjacent to the rights of the work owners.

### **Article 3 - Legal Personality**

Units and federations will acquire legal personality upon submittal to the Ministry of their charters of establishment and accompanied by their by-laws conformant to the standard statutes prepared by the Ministry and approved by the Council of Ministers.

### **Article 4 - Representation of members and collecting their claims**

The unions are authorised within the limits of the rights assigned to them by their members who are work owners and adjacent right holders in their relations with the public bodies and agencies, physical and legal persons.

Work owners and adjacent right holders may individually protect and defend their rights which they may not have assigned to the unions.

The financial rights of work owners and adjacent right holders of Turkish nationality may not be protected by unions, associations and similar organisations other than those established pursuant to the Regulations.

### **Article 5 - Monitoring of works**

The unions are under the obligation of monitoring the use of the copies of the intellectual and artistic works belonging to their members and to initiate action against illegal use.

### **Article 6 - Relations with international organisations**

The membership of unions and their federations with the international professional organisations is subject to the approval of the Ministry with the favourable opinions of the Ministries of Interior and Foreign Affairs.

Unions and their federations may cooperate with the public bodies and agencies, physical and legal persons abroad and inform the Ministry of the protocols they may enter as a result of such cooperation.

## **PART TWO**

### **Establishment of Unions**

#### **SECTION ONE**

#### **Areas of Activity and Establishment of Unions**

##### **Article 7 - Purposes and areas of activity of unions**

The union are established for the purpose of defending the common interests of work and adjacent right holders, collecting their indemnities and intellectual right claims and remitting them to the entitlees.

Following are the areas of activity of the unions:

1. Owners of intellectual and artistic work owners
  - a) Scientific and literary work owners
  - b) Owners of musical works
  - c) Owners of fine arts works
  - d) Owners of cinematographic works
  - e) Owners of adapted works
  
2. Adjacent right holders
  - a) Performing artists
  - b) Sound carrier producers
  - c) Radio and television organisations

Each subtitle for right and adjacent right holders shown above constitute a separate area. More than one union may be established in each of these areas.

### **Article 8 - Establishment of unions**

Persons in a number twice those of the board of directors and auditors and technical and scientific and disciplinary board may, if they have the qualification for membership, apply to the Ministry to establish an union.

The application will show the name, head office, address, forenames and names, places and dates of birth, professions, nationalities and residence addresses of the founding members. Will accompany the applications also the copies of their national identity cards, their signed statement declaring that they have the qualifications for membership and the by-laws in quintuplicate duly signed by all founding members.

The applications will also show the forenames and names and residence addresses of provisional members of the board of directors as well as the address to which the notices may be served.

Any discrepancies and inadequacies determined by the Ministry in the documents so submitted will be requested in writing to be remedied within a period of thirty days. The Ministry will establish a lawsuit under the general provisions for cancellation of the unions that do not remedy the discrepancies and inadequacies.

### **Article 9 - Union's first general assembly meeting**

The provisional board of directors will conduct the union's affairs and represent it and determine the membership requirements until the constitution of its unions.

The unions are under the obligation to hold their first general assembly meetings and constitute its organs within a period of six months from the date of application to the Ministry. The Ministry will establish a lawsuit under the general provisions for cancellation of the unions that do not comply with this requirement.

## **PART TWO**

### **UNION MEMBERSHIP**

### **Article 10 – Membership Rights and Obligations**

Any person having the required conditions for membership may apply to the Union therefor. The members have equal rights subject to the limitations enumerated in the articles 13 and 14. No one may be coerced to become a member of the Union. Membership of legal persons is contingent upon their establishment pursuant to the Turkish laws. Membership is permissive in a single professional association for each work in the same area. Authors, performers, manufacturers of sound carriers and radio and TV organisations may adhere to different professional associations for the types of work which they create or perform or of which they undertake the creation.

The members are under the obligation to remit the annual admission fee and the annual tuition fees afterwards as determined by the general assembly.

### **Article 11 – Types of membership**

The associations may have full, associate and candidate members.

### **Article 12 – Full Members**

The following conditions are required to become a full member:

- a) To be Turkish nationals for physical persons and to have been established pursuant to the Turkish laws for legal persons.
- b) To have the capacity of using civil rights.
- c) To be the owner of a work or of an adjacent right as defined in the Law on Intellectual and Artistic Works.
- d) To comply with the criteria established by the associations.
- e) To have been matriculated for at least six months in the trade register as a producer or broadcasting organisation and to be actually producing for at least the same period.

### **Article 13 – Associate Member**

Following persons are associate members:

- a) Persons who do not create the work but have the power to use the financial rights thereof either directly or through succession or transfer.
- b) Guardians or tutors of persons who are unable to use their civil rights.
- c) Foreign nationals having legal residence and work permits possessing primary or adjacent works as defined by the relevant regulations.

The holders of adjacent rights may not be elected to the Union's organs. Those enumerated in the sub-articles a and b above may, however, participate in the general assembly meetings without voting rights.

#### **Article 14 – Candidate members**

Those indicated in the article 12c above may become candidate members for a period of six months as defined in the same article. They may not vote in the general assembly meetings during this period and be elected to the Union's organs. They may be admitted to full membership by a board decision upon completion of the said six-month period.

#### **Article 15 – Membership applications and admission**

Physical and legal persons wishing to become members will apply in writing to the association in which they seek membership. Those complying with the conditions enumerated in the law and as well as in the by-laws of the Union and of the associations. The applications are examined by the board of directors and the results are communicated to the applicants within the following thirty days.

Those admitted to membership are entered in numerical sequence on the separate full, adjacent and candidate member ledgers.

#### **Article 16 – Membership conflicts**

Conflicts arising from uncertainties on the association to which the applicant shall be admitted will be settled by the federation established in that particular field. The decision authority will be the Ministry if there is no association established in the said field. The conflicts arising between the associations and members will be settled by the Union's general assembly.

#### **Article 17 – Termination of membership and liquidation of relations**

The membership will terminate upon the member's death, dissolution of legal personality, resignation or dismissal whereupon the membership entry in the ledger will be cancelled adding there the annotation of the resolution of the board of directors.

The mutual liabilities of the persons whose memberships so terminate on the one hand and the Union on the other will continue for a full year thereafter.

### **Article 18 – Resignation**

Members may submit their resignation requests in writing to the Union. The membership will terminate upon this application.

### **Article 19 – Dismissal and appeals**

The full, adjacent and candidate members may be dismissed under the following conditions by a recommendation of the board of directors and upon decision of the disciplinary board:

- a) Acts and actions that prevent the Union to perform its activities and to attain its objectives.
- b) Failure to remit tuition fees for one full year despite the written advice to that effect.
- c) Continuation of acts and attitudes contrary to the statement of powers despite the written advice to that effect.
- d) Failure to participate, in the case of full members, in three consecutive general assembly meetings without excuse.

Notices of dismissal decisions are communicated to the concerned members through a notary public within a period of seven days.

## **PART THREE**

### **Union's Organs**

#### **Article 20 – Union's organs**

Following are the legal organs of the Union:

- a) The general assembly,



- b) The board of directors,
- c) The supervisory board,
- d) Technology and science board,
- e) The disciplinary board.

Provided that their regulations so permit, the associations may establish additional organs.

#### **Article 21 – General assembly**

The general assembly is made up of the full members of the association

#### **Article 22 – Duties and powers of the general assembly**

Following are the duties and powers of the general assembly:

- a) To elect the members of the board of directors and of the supervisory, technology and science and disciplinary boards.
- b) To adopt resolutions to join the federation and to elect the representatives for the general assembly meetings of federation.
- c) To resolve conflicts regarding the type of membership.
- d) To discuss and finalise the draft budget proposals.
- e) To examine and finalise the reports submitted by the boards.
- f) To examine and finalise the accounts of board of directors.
- g) To resolve on the establishment or the closure of a head office directorate and branch offices.
- h) To decide on purchases and sales of immovable property and to empower the board of directors for establishing real rights thereon.
- i) To resolve on amendments in the Union's by-laws.
- j) To determine the admission charges and annual tuition fees.
- k) To resolve on cooperation with and joining the international organisations having similar purposes.

- l) To examine and resolve on matters requested by the board of directors for handling at the general assembly.
- m) To determine the criteria for admission to membership.
- n) To establish measures dealing with the unauthorised use of intellectual and artistic works.
- o) To perform such other duties as may have been indicated in the legislation and in the Union's by-laws.

### **Article 23 – General assembly meetings**

The ordinary general assembly meetings are held every two years by the end of March at the latest at the provincial where the Union's head office is located.

The general assembly meeting is summoned by the board of directors. The general assembly may also meet extraordinarily upon request made by the board of directors or the supervisory board or not less than one-fifth of the Union's full members.

Where the board of directors fails to summon the extraordinary general assembly meeting within thirty days following the written requests by the supervisory board or of one-fifth of the full members, the Ministry will upon requests of the supervisory board or of the members requesting such meeting commission a number of the standby board members equal to that of the board.

### **Article 24 – General assembly meeting calls**

The general assembly meetings are announced to the members by an invitation letter indicating the date, time and venue of the meeting and of the eventual subsequent meeting if the quorum is not reached in the aforesaid date, the agenda and the names of the members entitled to participate. The invitation letters must be mailed by a registered letter or hand-delivered against signed receipts to the members.

The meeting date, time, venue an agenda together with a roster of names of members to participate will be communicated in writing to the Governor's office and the Ministry not less than fifteen days prior thereto. The Ministry will assign a Government commissar to the meeting.

### **Article 25 - Meeting quora and procedure**

The general assembly will convene with the absolute majority of members. If the absolute majority is not attained in the first meeting, the following one will convene when the number of the members present is higher than twice the total of the members of boards of directors and auditors and of the disciplinary board.

All resolutions will be adopted by simple majority.

The general assembly members may also vote by notarised proxies for another member. Only one proxy is allowed for each member. Proxies are not permitted for the directors and auditors who are not allowed to vote by proxy for others.

Members are admitted to the general assembly meeting after signing across their names on the membership roster. Upon confirming by a protocol of the availability of the quorum, the meeting is called to order by the chairman of the board of directors or by a director selected for this purpose by the chairman.

The non-availability of the Government commissar will not invalidate the meeting. For conducting the meeting will be elected a chairman, an adequate number of deputy chairmen and at least two secretaries. The meeting will be conducted by the chairman or by one of the deputy chairmen indicated by the former. Minutes of the meeting, prepared by the secretaries, will be signed by the chairman or deputy chairman conducting the meeting and the secretaries and delivered to the board of directors. Only the items on the agenda may be examined in the general assembly meetings. Additional items may nevertheless be placed on the agenda upon recommendation to that effect of not less than one-tenth of the members present and decision of the general assembly.

#### **Article 26 - Board of directors**

The board of directors consists of five members elected for a term in office of two years by secret vote in the general assembly meeting by the full members. Five reserve members are also elected by the same method.

The board of directors will, within three days following the general assembly meeting, a chairman, a deputy chairman and an accountant from among its full members.

The board of directors will meet at least once a month upon invitation of its chairman or, in his absence or incapacitation, by the deputy chairman.

#### **Article 27 - Meeting and resolution quora of the board of directors**

The board of directors will convene with the presence of at least three of its members and resolve by a simple majority vote. Members who fail to participate in three consecutive meetings without excuse will be dismissed from the office.

#### **Article 28 - Duties and responsibilities of the board of directors**

Following are the duties and responsibilities of the board of directors:

- (a) To protect the common interests of the intellectual and artistic work owners and adjacent owners, to perform the necessary activities to secure their rights and to report to concerned authorities in case of violation of the rights of the members.
- (b) To hire and terminate the general secretary and the head and branch office employees and to establish the rules regarding their general employment conditions including salaries, social security rights and fringe benefits.
- (c) To prepare cash distribution plans and to submit them to the Ministry for approval.
- (d) To prepare the budget and to submit it to the general assembly meeting.
- (e) To prepare the proposals for the amendments of Union's by-laws and to submit them to the general assembly meeting.
- (f) To formulate the tariff schedules for indemnities and Union's shares to be deducted from intellectual right payments and to draw up regulations for their use.
- (g) To formulate the regulations for sharing the intellectual right payments, in case the entitlements fail to agree *inter se*, for the divisible works created by more than one person.
- (h) To finalise the full, associate and candidate membership applications.

- (i) The prepare all regulations regarding the operations and activities of head and branch offices and to submit same to the general assembly meeting.
- (j) To prepare as an assistance to the members the type contracts needed for the Union's follow-up of the intellectual and artistic rights.
- (k) To forward to the Ministry within three days the certified copies of all decisions of the board of directors and auditors as well as of all general assembly resolutions.
- (l) To cooperate with the Ministry on all matters dealing with the purposes of its establishment.
- (m) To perform such other duties as may have been indicated in its by-laws and the legislation.

#### **Article 29 - Representation of the Union**

The Union is represented by the chairman of the board of directors.

The power of representation may also be delegated to one or several of the members under a resolution of the board of directors.

Approval authority may be granted by resolutions of the board of directors to the general secretary and/or to the highest ranking employees of the branch offices for the protection of rights and for the Union's contacts with the public bodies, agencies and third persons.

#### **Article 30 - Board of Auditors**

The board of auditors consists of not less than three persons elected by the general assembly by secret vote for a term in office of two years. Reserve members in the same number will also be elected.

#### **Article 31 - Duties of the board of auditors**

The board of auditors will audit at intervals of not less than six months and in conformance with the rules and guidelines contained in the Union's by-laws all activities and accounts of the board of directors, report its conclusions to the board of directors and, in form of biennial

reports, to the general assembly. Copies of these reports will also be forwarded to the Ministry.

### **Article 32 - Technical and scientific board**

The technical and scientific board will consist of not less than three full members by the general assembly by secret vote for a term in office of two years. Reserve members in the same number will also be elected. The technical and scientific board will elect a chairman from among its members within the three days following its election.

### **Article 33 - Duties of technical and scientific board**

The technical and scientific board will perform studies and research in the areas within the ambit of specialisation of the Union, to make recommendations to the concerned boards, to prepare reports on subjects indicated by the board of directors, to furnish copies thereof to the board of auditors and to perform such other duties as may have been indicated in the Union's by-laws.

Representatives of other concerned bodies and agencies and third persons may also be invited to its meetings of its chairman or members consider it appropriate.

### **Article 34 - Disciplinary board**

The disciplinary board will consist of not less than three full members by the general assembly by secret vote for a term in office of two years. Reserve members in the same number will also be elected. The technical and scientific board will elect a chairman from among its members within the three days following its election.

### **Article 35 - Duties of the disciplinary board**

The disciplinary board has the duty to implement the discipline regulations prepared by it, examined the board of directors and approved by the general assembly.

Decisions of dismissal from membership and other disciplinary measures are within the ambit of this board.

Such decisions and measures may be appealed within seven days at the federation disciplinary boards.

Resort to legal remedies is open to decisions and measures that are not appealed.

#### **Article 36 - Notification of elected members of organs**

Forenames, names, names of fathers, dates and places of birth, professions and addresses of members and their elected to the Union's organs will be communicated within seven days to the Ministry and the concerned provincial authority which will forward same to the Ministry of Interior.

#### **Article 37 - Branch Offices and head office management**

The Unions may establish branch offices upon recommendation of their boards of directors and approval of their general assemblies. The branch offices ensure a continuous liaison between the members in their region and the central union.

Personnel employed at branch office are deemed to be the union's personnel.

The unions may also establish a head office management under the recommendations of their boards of directors and approval of their general assemblies. The number of personnel to be employed and their emoluments will be determined by general assembly decisions.

## **PART FOUR Financial Provisions**

#### **Article 38 - Fiscal year**

The union's fiscal year is one calendar year beginning on the first of January every year.

#### **Article 39 - Revenues of unions**

Following are the revenues of the unions:

- (a) Admission charges and annual tuition fees from the members.

- (b) Union shares deducted from the indemnities and intellectual right payments.
- (c) Publication revenues.
- (d) Revenues obtained through withholdings under the article 44 of the Law for distribution to the right owners.
- (e) Revenues from donations and bequeaths.
- (f) Interest, treasury bond and State bond revenues.
- (g) Others.

#### **Article 40 - Affidavit of authorisation**

Upon receipt of affidavits of authorisation from its members, the Union will undertake the follow-up of the works indicated thereat and its financial rights, the collection and distribution thereof.

The members will remit for this purpose affidavits of authorisation granting clear powers for the follow-up of the relevant rights before the judicial instances and enforcement offices conformant to the general rules laid down the regulation issued by the Ministry under the article 20 of the Law.

#### **Article 41 - Distribution**

The amounts collected by the union less the union's share will be remitted to the entitlees on a quarterly basis and the indemnities less the legal and executory expenses incurred for their encashment will be remitted within the following fifteen days.

Revenues obtained through withholdings under the article 44 of the Law will be distributed at the end of each year to the unions as per the distribution plan prepared by the Ministry. The Ministry will distribute these revenues to the unions operating in the field of the carrier environment in which the works are stored or to the concerned unions if the carrier environment has more than one piece of work.



Will be deemed as distribution criteria the indemnities collected by the unions operating in the same field and the number of copies made of the works.

The unions will then distribute these amounts to the entitlees according to the distribution plans furnished by the Ministry.

#### **Article 42 - Payments to board members and officials**

Attendance payments will be made to the members of the boards of directors and auditors, technical and scientific board and disciplinary board members for each day of their presence as per the minutes drawn up at the end of each meeting and travel allowances and per diems will be arranged for those coming from locations other than the city where the head office is located.

The attendance payments, travel allowance and per diems will be determined by general assembly resolutions.

### **PART FIVE**

#### **Termination of Union's Legal Personality**

#### **Article 43 - Termination by the general assembly**

The Union's general assembly may adopt a termination resolution with a two-thirds majority. The termination resolution will be communicated to the Ministry within five days to the concerned provincial authority and to the Ministries of Culture and Interior.

#### **Article 44 - Dissolution by a judicial decision**

Dissolution by a judicial decision may be proceeded with if

- (a) the corrections in the charter of establishment and in its enclosures required by the Ministry under the article 8 of the Law are not remedied within thirty days, and
- (b) the first general assembly meeting is not held and the union's organs are not formed within a period of six months after the date of application to the Ministry under the article 9 of the Law.

Under such circumstances, the Ministry will establish a lawsuit for dissolution at the local judicial authority under the general provisions.

#### **Article 45 - *Ipsa facto* dissolution**

Unions falling into financial distress or failing to hold two consecutive general assembly meetings because of quorum inadequacies will be deemed as *ipsa facto* dissolved. Such situations will be communicated to the Ministries of Culture and Interior by the highest local administrative authority.

#### **Article 46 - Liquidation**

Assets of the unions terminated or dissolved will be liquidated pursuant to the procedure applicable to the liquidation of associations. Unless otherwise indicated in the by-laws or a resolution otherwise is adopted by the general assembly, the remaining assets will be transferred to a public agency with purposes similar to those of the union so dissolved.

## **PART SIX Miscellaneous**

#### **Article 47 - Books and records**

The unions are held to keep the following books:

- (a) Full members ledger
- (b) Associate member ledger
- (c) Candidate member ledger
- (d) Board of directors resolutions ledger
- (e) Incoming and outgoing correspondence ledger
- (f) Revenues and expenditures ledger
- (g) Budget and final accounts and balance sheet ledger
- (h) Fixed assets ledger

The board of directors may also resolve to establish and maintain other ledgers as may be dictated by the work and services.

All pages of ledgers will bear sequential numbers and be legalised through a notary-public.

#### **Article 48 - Archive copies of works**

All owners of work or right who are union members are under the obligation to deliver one copy of their reproduced works or, in case of unreproducible ones, one scaled-down model, photograph or physical environment into which it may have been loaded for the archive to be created by the union in conformance with the notice to be issued by the union.

The unions may, for creating this archive, cooperate with public or private legal persons operating in the same area.

## **SECTION THREE Professional Association Federations**

### **PART ONE Establishment of Federations**

#### **Article 49 - Establishment of federations**

A professional association federation may be established under the standard by-laws prepared by the Ministry and approved by the Council of Ministers by at least three professional associations operating in the same field.

More than one federation in the same field is not permissible.

#### **Article 50 - Application for establishment**

A federation establishment application is made by the board chairmen of associations taking part in the federation by general assembly resolutions.

The establishment application to be made to the Ministry in writing will be accompanied by documents giving the federation's and founding union's names and addresses, signed by the chairmen of the boards of directors plus statements evidencing that the signatories are chairmen as well as the federation's by-laws in quintuplicate.

Where the Ministry discovers discrepancies or violations of the law in the said documents, a written notice will be served upon the applicants to remedy the situation within thirty days. A liquidation case will be initiated under the civil law provisions against the federations failing to comply with this notice.

#### **Article 51 - Right and freedom of membership**

Unions established in the same field wishing to join the established federations will apply to the said federations upon resolution of joining by their general assembly meetings. The federations finalise the membership applications within thirty days and communicate the results to the applicant unions.

Conflicts arising between unions and federations regarding the membership matters will be solved by the Ministry.

#### **Article 53 - Withdrawal from membership**

Member unions may apply for withdrawal from membership upon resolutions to that effect of their general assemblies. The membership terminates upon such application. The mutual liabilities will nevertheless continue for the next following year.

## **PART TWO**

### **Federation's organs**

#### **Article 54 - Federation's organs**

Federation's organs are the following:

- (a) General assembly
- (b) Board of directors
- (c) Board of auditors
- (d) Technical and scientific board
- (e) Disciplinary board

The federations may nevertheless establish additional organs provided that this power is indicated in their by-laws.

### **Article 55 - General Assembly**

Each union is represented in the general assembly in proportion to the number of its members. For this purpose, each union elects one-tenth of its members as representatives in the federation's general assembly.

### **Article 56 - Duties of the general assembly**

Following are the duties of the general assembly:

- (a) To elect the primary and reserve members of the board of directors and of auditors and of the technical and scientific and disciplinary boards.
- (b) To discuss and finalise the budget.
- (c) To examine and finalise the reports submitted by the boards.
- (d) To examine the accounts of the board of directors and to acquit the directors and auditors.
- (e) To resolve on purchase and sale of immovable property and to authorise the board of directors to establish real rights thereon.
- (f) To examine the proposals of amendment of federation's by-laws and to finalise them.
- (g) To resolve on the federation's entry into international organisations with similar goals and to finalise them.
- (h) To examine and finalise the matters of which the board of directors wishes to be examined at the general assembly.
- (i) To perform such other duties as required by the legislation in force and the by-laws of the federation.

### **Article 57 - General assembly meetings**

The general assembly will ordinarily meet every other year during the first or, in case the quorum is not attained, in the last week of the month of May.

The general assembly meetings are summoned by the board of directors. It may also meet extraordinarily upon request of the board of directors or of auditors or upon written demand of not less than one-fifth of the members. If, however, the board of directors fails to convene the general assembly within thirty days following the written demand of the board of auditors or of one-fifth of the members, the Ministry may commission members in the same number of the board members to convene the general assembly upon written request of the board of auditors or of the members requesting the meeting.

#### **Article 58 – Board of directors**

The board of directors consists of five persons elected at the general assembly from among the members by secret vote for a term in office of two years. Reserve members in the same number are also elected by the same procedure.

The board of directors will within the first three following days elect one chairman, one deputy chairman and one accountant from among its members. It will meet at least once a month upon invitation of its chairman or, in case of his incapacitation, its deputy chairman.

#### **Article 59 – Meeting and resolution quora**

The board of directors will convene with the presence of at least three members and resolve by simple majority.

Board members who fail to attend three consecutive meetings without excuse will disqualify.

#### **Article 60 – Duties and responsibilities of the board of directors**

Following are the duties and responsibilities of the board of directors:

- a) To perform activities aimed at the protection of the rights of intellectual, artistic and adjacent work owners.
- b) To hire and dismiss the general secretary and other employees, to determine rules and guidelines governing their salaries, social insurance and fringe benefit details.

- c) To prepare the draft budget and submit it to the general assembly for discussion and approval.
- d) To formulate the draft amendments on the federation's by-laws and the regulations for the operation and activities of the federation and submit them to the general assembly for discussion and approval.
- e) To forward copies of the general assembly resolutions and of the board of auditors reports within three days following the general assembly meeting.
- f) To determine the rules to govern the eventual cooperation areas of the member unions.
- g) To try settling the conflicts and disagreements that may arise between the member unions.
- h) To perform studies on subjects bearing upon the federation's purposes of establishment and for finding solutions to issues encountered and to cooperate with the Ministry to that effect.
- i) To perform such other functions as may have been requested by the relevant legislation and the federation's by-laws.

#### **Article 61 – Federation's representation**

The federations will be represented by the chairmen of their boards of directors.

The representation powers may if necessary be delegated to one or more members of the boards of directors.

Approval authority may be granted to the general secretary and to the highest-ranking officials of the branch offices for the federation's relations with the public bodies and agencies as well as with the third persons.

#### **Article 62 – Board of auditors**

The board of auditors consists of three persons elected at the general assembly from among the members by secret vote for a term in office of two years. Reserve members in the same number are also elected by the same procedure.

The board of auditors will within the first three following days elect one chairman one deputy chairman from among its members.

#### **Article 63 – Duties of the board of auditors**

The board of auditors will audit at intervals of not less than six months and in conformance with the rules and guidelines contained in the Union's by-laws all activities and accounts of the board of directors, report its conclusions to the board of directors and, in form of biennial reports, to the general assembly. Copies of these reports will also be forwarded to the Ministry.

#### **Article 64 - Technical and scientific board**

The technical and scientific board will consist of not less than three full members by the general assembly by secret vote for a term in office of two years. Reserve members in the same number will also be elected. The technical and scientific board will elect a chairman from among its members within the three days following its election.

#### **Article 65 - Duties of technical and scientific board**

The technical and scientific board will perform studies and research in the areas within the ambit of specialisation of the federation, to make recommendations to the concerned boards, to prepare reports on subjects indicated by the board of directors, to furnish copies thereof to the board of auditors and to perform such other duties as may have been indicated in the Union's by-laws. Representatives of other concerned bodies and agencies and third persons may also be invited to its meetings of its chairman or members consider it appropriate.

#### **Article 66 - Disciplinary board**

The disciplinary board will consist of not less than three full members by the general assembly by secret vote for a term in office of two years. Reserve members in the same number will also be elected. The technical and scientific board will elect a chairman from among its members within the three days following its election.

#### **Article 67 - Duties of the disciplinary board**

The disciplinary board has the duty to implement the discipline regulations prepared by it, examined the board of directors and approved by the general assembly.



Decisions of dismissal from membership and other disciplinary measures are within the ambit of this board. Such decisions and measures may be appealed within seven days at the federation disciplinary boards. Resort to legal remedies is open to decisions and measures that are not appealed.

#### **Article 68 – Head office management**

The federations may also establish head office managements under the recommendations of their boards of directors and approval of their general assemblies. The number of personnel to be employed and their emoluments will be determined by general assembly decisions.

### **PART THREE**

#### FEDERATION'S REVENUES

#### **Article 69 – Federation's revenues**

The federation's revenues are the following:

- a) Share of participation to federation's expenditures in an amount not to exceed ten percent of the fiscal year revenues of the unions as determined by the federation's general assembly.
- b) Donations.
- c) Interest, treasury and state bond revenues.
- d) Other revenues.

#### **Article 70 – Books and records**

- (a) Ledger of federation representatives
- (b) Board of directors resolutions ledger
- (c) Incoming and outgoing correspondence ledger
- (d) Revenues and expenditures ledger
- (e) Budget and final accounts and balance sheet ledger
- (f) Fixed assets ledger

The board of directors may also resolve to establish and maintain other ledgers as may be dictated by the work and services.

All pages of ledgers will bear sequential numbers and be legalised through a notary-public.

#### **Article 71 – Other applicable provisions**

Articles 9, 25, 27, 36, 38, 42, 43, 44, 45 and 46 are applicable also for the federations.

### **PART FOUR**

#### **MISCELLANEOUS PROVISIONS**

#### **Article 72 – Supervision**

Unions and federations are subject to the Ministry's administrative and financial supervision. The Ministry may post observers to the general assembly meetings of the unions and federations.

#### **Article 73 – Regulations**

The regulations referred to in the by-laws will be prepared within six months following the constitution of the organs of unions and federation.

#### **Article 74 – First fiscal year**

The first fiscal years of the unions and federations will start on the dates of their establishment and end on the last day of the same year.

#### **Article 75 – Other legislation**

Where provisions do not exist in the by-laws on the activities of the union and federations, relevant provisions will apply of the Laws on the Intellectual and Artistic Works and of the Associations.

### **Article 76 – Rescinded provisions**

The Regulation on the Professional Associations and Federations of Intellectual and Artistic Works Owners put into effect by the decision n<sup>o</sup> 86/10534 dated 28 March 1986 is hereby rescinded.

### **Provisional article 1 – Restructuration**

The professional associations established prior to the entry into force of the present decree will be, within a period of one year following the publication of the relevant standard by-laws and regulations, converted under the guidance of the Ministry into new professional associations in line with the applicable provisions of the Law and the decree and the said by-laws. They will then establish their new organs at the general assembly meetings to be held within the said period.

Professional associations failing to comply with the above will be deemed as *ipso facto* dissolved at the completion of the said one-year period.

### **Article 77 – Entry into force**

Provisions of the present decree prepared under the article 42 of the Law n<sup>o</sup> 5846 and approved by the Council of State will enter into force upon its publication in the Official Gazette.

### **Article 78 – Enforcement**

Provisions of the present decree will be enforced by the Council of Ministers.

# REGULATIONS ON NEIGHBORING RIGHTS TO the AUTHORS OF WORKS

## PART ONE General Provisions

### Article 1 – Purpose

The purpose of these regulations is to protect and determine the limits of the Adjacent rights of persons with respect to those holding intellectual and artistic works rights and to introduce rules governing the relations *inter se* of the former and those between the adjacent and primary right holders.

### Article 2 – Scope

These regulations cover the principles and guidelines governing the rights adjacent to the those of the holders of intellectual and artistic works, without prejudice to the material and intellectual rights of the owners, with respect to performers thereof and to radio and television directors as well as to the manufacturers of sound-recording media making the initial records of such works.

### Article 3 – Legal justification

These regulations are prepared pursuant to the additional article 3 added by the Law n<sup>o</sup> 4110 dated 7 June 1995 to the Law n<sup>o</sup> 5846 on the Intellectual and Artistic Works and to the Rome Convention of 26 October 1961 on the Protection of the rights of Performers, Phonogram Producers and Broadcast Organisations.

### Article 4 – Definitions

The following terms used herein will denote the following meanings indicated therefor:

- a) *Adjacent rights* as used herein will denote the rights of persons performing an intellectual or artistic work in an original manner or participating to its performance and of physical or legal persons recording a performance or sounds for the first time and reproducing, leasing and broadcasting by cabled or wireless means and performing them at places open to the public.

- b) *Performers* are vocal artists, singers, musicians, dancers and other persons who interpret the works of art or folkloric works in an original manner, promoting, singing, incarnating and describing them.
- c) *Sound carrier producers* are the physical or legal persons making the initial recording of all sounds with or without lyrics and undertaking the legal responsibility thereof.
- d) *Broadcasting organisations* are the radio and television systems.
- e) *Recording* is the registry of sounds on any material means permitting their auidial observation, reproduction or otherwise transmission to the public.
- f) *Sound carrier* is the means designed to retain sounds or works produced by electronic means.
- g) *Broadcasting* is the presentation to public via wired or wireless means of the sounds, images or both in a manner that permits the public to hear and/or see them.
- h) *Simultaneous broadcast* is the broadcast of one organisation also by others in a synchronous manner.
- i) *Hiring* is the change of hands for commercial purposes for a given period of the possession of the material means on which the sounds and/or images are recorded.

#### **Article 5 - Limitations**

The adjacent rights may not impair the material and intellectual rights of the original right holders. The adjacent right holders may not restrict the rights of the owners in using this right.

## **PART TWO**

### **RIGHTS OF PERFORMERS**

#### **Article 6 – Nature of right**

The rights arising from the performance of the works by the performing artist may not be used in a manner that impairs the original right holder reflecting to the public.

### **Article 7 – Approval of performing artist**

The approval in writing of the performing artist is required under following circumstances:

- a) Recording of performances not recorded previously.
- b) Leasing of the performances reproduced for commercial purposes.
- c) Reproduction of performances of which the initial recordings are made without permit in advance.
- d) Reproduction for purposes other than the intended ones of works for which reproduction permit is granted.
- e) Broadcast by radio and television systems of performances not made from a recording offered to public for commercial purposes or not constituting a radio or television broadcast.

### **Article 8 – Signature of a contract**

Where the rights of duplicating, leasing, broadcasting or performing by wired or wireless means are granted to a producer for a certain consideration under a contract by and between the performing artist and a producer, the written consent of the performing or interpreting artist will not be sought. If, however, the contract foresees the transfer of only a certain part of these rights to the producer, the written consent of the performing or interpreting artist and the owner of the works will be sought for the parts not included in the contract.

Where the recordings of the performances made or required to have been made by the artists pursuant to the contract signed are intended to be used for purposes other than those indicated therein, the terms and conditions of such use will be determined in a contract to be entered into by and between the producer and the performing artist.

### **Article 9 – Transfer or rights arising from performance of choral, orchestral or theatrical works**

For recording, reproducing and leasing of the performances of choral, orchestral or theatrical works and broadcasting thereof via wired or wireless means, approval only of the conductor is sufficient.

### **Article 10 – Display of the names of artists**

Performers, conductors and soloists in choral and orchestral works, directors and *dramatis personæ* in theatrical works have the right to demand that their names are displayed in the generics of media used for the transmission of signals, images and sounds.

### **Article 14 – Several performers**

Where a work is performed by several artists and it may be divided into parts, each of the artists performing a particular part is deemed to be the owner of the relevant rights. If, however, the product so obtained constitutes an inseparable entity, the owner thereof is the union of all performers creating it. The performers of such products are under the obligation of respecting in priority the rights of each other. The performers may act in unison or empower one from among themselves for the protection of their rights arising therefrom. Where one of the performers objects without reasonable cause to the action intended to be taken by the others, the approval therefor may be granted by the competent court. Each of the performers may act on his or her own in case the group's rights are violated.

## **PART THREE**

### **Rights of Sound Carrier Producers**

#### **Article 12 – Producer's written approval**

Written approval of the producer of sound carrier media is necessary in the following situations:

- a) Direct or indirect reproduction of recorded sounds.
  
- b) Lease of copies of sound carrier media.

- c) Broadcast or performance of works on sound carrying media on commercial circulation by the radio and television organisations or other entities or their performance in locals open to the public.

#### **Article 13 – Use of rights by producers**

Where a sound carrying medium on which is recorded an artist's performance is put on the market for commercial purposes, the producer of sound carrying medium may request the payment under general provisions of law of a part of the revenue secured therefrom by the performing artist.

#### **Article 14 – Rebroadcast**

Approval of the performers or of the manufacturers of the sound carrying media is not necessary for the rebroadcast of a performance or of a theatrical work. The rebroadcasting organisation is nevertheless held to pay a royalty to the said persons.

## **PART FOUR**

### **Rights of Publishing Organisations**

#### **Article 16 – Rights of Publishers**

The publishing organisations have the rights

- a) to produce publications in any field whatsoever,
- b) to reproduce their publications,
- c) to reproduce their publications to the public by other means and at other locations, and
- d) to market the reproduced copies of such publications or to distribute them through other methods.

#### **Article 17 – Written approvals of publishing organisations**

The written approval of the organisation making the initial publication or presentation of the work is necessary if

- a) the initial publication are rebroadcast by wired or wireless means simultaneously or subsequently by other broadcasting organisations, or



- b) the publication is offered to the public by other persons or organisations at locations where an admission fee is charged.

#### **Article 18 – Partial reproduction**

The reproduction of a part of a publication for information purposes without impairing the rights on the whole of the work is not subject to the procedure of approval in advance.

#### **Article 19 – Compliance with the contract provisions**

The rights of publishing organisations are used by the producers in conformance with the contracts entered into with the producers, owners and performers.

### **PART FIVE**

#### **Common and Final Provisions**

#### **Article 20 – Implementation for aliens**

Provisions of the provisions hereof will be implemented under the following circumstances for the performers, producers and publishers whose rights are protected under the international conventions of which the Republic of Turkey is a party:

- a) For the performing artists
1. If the performance is made within the territory of a signatory State.
  2. If the performance is recorded on a medium protected for its nationality, determination and broadcasting criteria.
- b) For the manufacturers of sound carrying media:

1. If the manufacturer of the sound carrying medium is a national of a State which is a party to the convention.
  2. If the sound is originally recorded in the territory of another State which is a party to the convention.
  3. If the original recording of the sound is made in the territory of another State which is a party to the convention.
- c) For the publishing organisations:
1. The existence of the head or management office of the publishing organisation in the territory of another State which is a party to the convention.
  2. Transmission of the broadcast through a relay station located in the territory of another State which is a party to the convention.

#### **Article 21 – Protection period**

Rights of the performing artists will continue for seventy years starting from the date or original recording of the work. Where such recording is not made, the date on which the work becomes public knowledge will be used.

Rights of producers will continue for seventy years from the date of initial commercialisation of recorded media.

Rights of radio and television organisations will continue for seventy years starting from the date of initial broadcast.

#### **Article 22 – Means of protection**

Holders of adjacent rights may avail themselves of the rights to demand the termination of violation and/or indemnity.

### **Article 23 - Transfer and assignment of rights**

Transfer and assignment of the adjacent rights are subject to the general provisions of the Law n° 5846.

### **Article 24 – Exceptions**

Following are the cases that do not necessitate the approval of adjacent rights:

- a) Private performances made within a family at no charge.
  
- b) Reproductions and home recordings made for private use not entailing a joint usage activity.
  
- c) Analyses and short recordings made for the promotion of the work or for scientific purposes.
  
- d) Presentations and speeches made for general and current information purposes.
  
- e) Uses by broadcasting organisations for promotional and informative purposes.
  
- f) Sketches and cartoons compliant with the general rules applicable thereto and not designed to impair or ridicule the primary or adjacent right holder and not capable to damage his or her Personality or individual rights.

- g) Performance of intellectual and artistic works for the public order, education, training, scientific research or interview without pecuniary benefit considerations.

**Article 25 – Entry into force**

The present regulations will enter into force upon its publication.

**Article 26 – Enforcement**

Provisions of the present regulations will be enforced by the Ministry of Culture.

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